

COMMISSIONERS
MIKE GLEASON - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

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ARIZONA CORPORATION COMMISSION

DATE: JANUARY 23, 2008

DOCKET NO: T-03590A-07-0361

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Belinda Martin. The recommendation has been filed in the form of an Order on:

WESTERN CLEC CORPORATION
(CANCEL CC&N)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

FEBRUARY 1, 2008

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

FEBRUARY 12, 2008 and FEBRUARY 13, 2008

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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EXECUTIVE DIRECTOR

Arizona Corporation Commission
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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MIKE GLEASON - Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 KRISTIN K. MAYES
7 GARY PIERCE

8 IN THE MATTER OF THE APPLICATION OF
9 WESTERN CLEC CORPORATION FOR THE
10 CANCELLATION OF THE CERTIFICATE OF
11 CONVENIENCE AND NECESSITY.

DOCKET NO. T-03590A-07-0361

DECISION NO. _____

ORDER

12 Open Meeting
13 February 12 and 13, 2008
14 Phoenix, Arizona

15 **BY THE COMMISSION:**

16 Having considered the entire record herein and being fully advised in the premises, the
17 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

18 **FINDINGS OF FACT**

19 1. Western CLEC Corporation ("Company") has a Certificate of Convenience and
20 Necessity ("Certificate") to provide resold long distance, facilities-based long distance, resold local
21 exchange, facilities-based local exchange and exchange access telecommunications services in the
22 State of Arizona pursuant to Decision No. 63657 (May 4, 2001).

23 2. Under the terms of the Decision, the Company was to file proof of a \$100,000
24 performance bond within 180 days from the effective date of the Decision, or 30 days prior to the
25 provision of service, whichever came first.

26 3. On February 22, 2002, a Procedural Order was issued granting the Company an
27 extension of time to file proof of the performance bond until May 4, 2002, or 30 days prior to
28 provision of service, whichever came first.

1. On May 6, 2002, the Commission's Utilities Division Staff ("Staff") filed
correspondence sent to the Company noting that the Company was delinquent in filing the required
item. In the letter, Staff stated, "As a result of this non-compliance, the Certificate of Convenience

1 and Necessity did not issue to Western CLEC Corporation and is void.”

2 5. On June 11, 2007, the Company filed with the Commission an application
3 (“Application”) for cancellation of its Certificate. The Company stated that it has no customers or
4 operations in the State of Arizona.

5 6. On June 28, 2007, Staff filed its Letter of Insufficiency and First Set of Data Requests
6 (“Data Requests”).

7 7. On August 8, 2007, the Company filed its responses to the Data Requests.

8 8. On October 29, 2007, Staff filed its Staff Report recommending cancellation of the
9 Company’s Certificate.

10 9. Staff noted that the Company has no customers or operations in Arizona. Further, in
11 its responses to the Data Requests, the Company asserted that, because it had never provided service
12 or had customers in the state, the provisions of Arizona Administrative Code (“A.A.C.”) R14-2-1107
13 requiring publication and notification to customers of the application and provision of a list of
14 alternate service providers, are not applicable. Additionally, the Company indicated that it never
15 collected advances, deposits, and/or prepayments and, therefore, no plan for return of such funds is
16 necessary.

17 10. The Commission’s Consumer Services Section reported that there were no customer
18 complaints, inquiries or opinions against the Company from January 1, 2004 through June 19, 2007.

19 11. The Corporations Division’s records show that the Company is in good standing as the
20 Company timely filed its 2006 Annual Report.

21 12. The Commission’s Compliance Division reported to Staff that the Company did not
22 file proof of the performance bond.

23 13. For the foregoing reasons, Staff recommends that the Commission grant the
24 Company’s Application to cancel its Certificate.

25 14. Although the Company did not comply with the terms of A.A.C. R-14-2-1107, the
26 Company had no customers to notify of the Application, of the cessation of business in Arizona, or to
27 whom to provide a list of alternative providers. As such, the requirements of A.A.C. R-14-2-1107 are
28 hereby waived.

15. Given the foregoing, Staff's recommendation is reasonable.

CONCLUSIONS OF LAW

1. The Company is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over the Company and the subject matter of the application.

3. The cancellation of the Company's Certificate is in the public interest.

4. Pursuant to A.R.S. § 40-282, the Commission may issue Decisions regarding Certificates of Convenience and Necessity for certain telecommunication services without a hearing.

5. Staff's recommendation is reasonable and should be adopted.

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ORDER

IT IS THEREFORE ORDERED that the application of Western CLEC Corporation for the cancellation of its Certificate of Convenience and Necessity to provide resold long distance, facilities-based long distance, resold local exchange, facilities-based local exchange and exchange access telecommunications services in the State of Arizona pursuant to Decision No. 63657 shall be, and is hereby, approved, and the Certificate of Convenience and Necessity is cancelled.

IT IS FURTHER ORDERED that Docket No. T-03590A-98-0364 is hereby closed.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, DEAN S. MILLER, Interim Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of ____, 2008.

DEAN S. MILLER
INTERIM EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR: WESTERN CLEC CORPORATION

2 DOCKET NO.: T-03590A-07-0361

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